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Attorneys for Plaintiff  
VERIGY US, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

VERIGY US, INC, a Delaware Corporation,

Plaintiff,

vs.

ROMI OMAR MAYDER, an individual;  
WESLEY MAYDER, an individual; SILICON  
TEST SYSTEMS, INC., a California Corporation;  
and SILICON TEST SOLUTIONS, LLC, a  
California Limited Liability Corporation,  
inclusive,

Defendants.

Case No. C07 04330 RMW (HRL)

**OBJECTIONS TO DEFENDANTS'  
EVIDENCE IN SUPPORT OF OPPOSITION  
TO OSC RE: CONTEMPT**

Date: April 11, 2008

Time: 9:00 a.m.

Place: Courtroom 6

Judge: Hon. Ronald M. Whyte

Complaint Filed:

August 22, 2007

Trial Date:

None Set

1 Plaintiff Verigy US, Inc., (“Verigy”) hereby objects to and moves to strike the following  
 2 portions of the Declaration of Romi Omar Mayder in Support of OSC RE: Contempt (“Mayder  
 3 Declaration”) submitted by Defendants in support of their opposition to order to show cause re:  
 4 contempt, now set for hearing on April 11, 2008.

5 **OBJECTION NO. 1:**

6 Verigy objects to and moves to strike Paragraph 7 of the Mayder Declaration which states:  
 7 *“After reviewing the publicly available TRO, I asked Dr. Richard Blanchard to give me an*  
 8 *objective opinion on whether Flash Enhancer contained any Verigy trade secrets. Dr. Blanchard*  
 9 *signed the protective order, reviewed the TRO, Verigy’s moving papers, and STS documents*  
 10 *related to Flash Enhancer. After his review of the documents and a substantial discussion of my*  
 11 *knowledge of the facts, Dr. Blanchard’s objective opinion was that Flash Enhancer contained no*  
 12 *trade secrets.”*

13 **Grounds for Objection:**

14 Verigy objects to and moves to strike the paragraph because it is made in violation of Civil  
 15 L.R. 7-5(b) which provides that a “declaration may only contain facts, must conform as much as  
 16 possible to the requirements of FRCivP 56(e), and must avoid conclusions and argument. Any  
 17 statement made on information and belief must state the basis therefore. An affidavit or  
 18 declaration not in compliance with this rule may be stricken in whole or in part.” The statement  
 19 about Dr. Blanchard’s purported opinion is impermissible hearsay not falling within any  
 20 exception. F.R.E. 801, 802, 803.

21 **OBJECTION NO. 2:**

22 Verigy objects to and moves to strike Paragraph 8 of the Mayder Declaration which states:  
 23 *“I hired Dr. Blanchard to testify as an expert witness in this case. I am informed and believe that*  
 24 *Dr. Blanchard’s declaration, submitted in prior motions to this court, affirms his initial opinion,*  
 25 *that Flash Enhancer does not contain any Verigy trade secrets.”*

26 **Grounds for Objection:**

27 Verigy objects to and moves to strike the paragraph because it is made in violation of Civil  
 28 L.R. 7-5(b) which provides that a “declaration may only contain facts, must conform as much as

1 possible to the requirements of FRCivP 56(e), and must avoid conclusions and argument. Any  
2 statement made on information and belief must state the basis therefore. An affidavit or  
3 declaration not in compliance with this rule may be stricken in whole or in part.” Mayder’s  
4 statement about what Dr. Blanchard’s declaration “affirms” lacks foundation in that it fails to state  
5 the basis for his “belief.” F.R.E. 602; *see, United States v. Shumway*, 100 F.3d 1093, 1104 (9<sup>th</sup>  
6 Cir. 1999). It also effectively constitutes impermissible opinion testimony. F.R.E. 701; *see,*  
7 *Price v. Kramer*, 200 F3d 1237, 1251 (9<sup>th</sup> Cir. 2000). These statements also are based on  
8 impermissible hearsay regarding Dr. Blanchard’s purported opinions. F.R.E. 801, 802, 803.  
9 Verigy further objects to the statements because they are speculative and should be excluded  
10 pursuant to F.R.E. 403 (exclusion of relevant evidence based on grounds of prejudice, confusion  
11 or waste of time).

12  
13 Dated: March 28, 2008

BERGESON, LLP

14  
15 By:                     /s/                      
16 Michael W. Stebbins

17 Attorneys for Plaintiff  
18 VERIGY US, INC.  
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